

>> recognizes the shift Daubert brought about for the polygraph community.

“Daubert did not involve lie detection, per se, as an issue, as Frye did, but it had a profound effect on admissibility of polygraph results as evidence, when proffered by the defendants under the principles embodied in the Federal Rules of Evidence expressed in Daubert,” the website states. “...Primarily because of Daubert, as well as the impact the other cited cases have had, polygraph examination admissibility is changing in many states. Many appeals, based on the exclusion of evidence at trial are now under review by appellate courts.”

The good news hasn’t been such an easy sell for Kentucky, yet.

In August 2009, Hope White was indicted in Wayne County for the murder of her friend, Julie Burchett, whom she believed was having an affair with her boyfriend, Bobby Buster, according to court records. White’s case went to trial, where she was found guilty of the crime and sentenced to 30 years imprisonment.

White appealed, claiming — like Morton — that she had passed a polygraph exam during the course of the investigation and that evidence was not admitted at trial, said Wayne County Commonwealth’s Attorney Matthew Leveridge.

“The trial court relied on 35 years of Supreme Court precedent saying you cannot introduce a polygraph,” Leveridge said. “So, her polygraph examination and any

mention of it was excluded — correctly excluded — the Supreme Court told us, so that was not part of the trial. Of course, it went up on appeal, and the Supreme Court confirmed the trial court’s ruling on the polygraph. They just basically said that the polygraph is unreliable and it is not admissible, on either side, period.”

In fact, the Court referred to Morton in its decision, noting that the case established clear precedent regarding a polygraph’s admissibility, stressed the importance of that precedent as a matter of law and that White’s case provided “no sound reason for ignoring our precedent.”

Leveridge noted, however, that there is one Kentucky case where the Supreme Court ruled that the circumstances of the

“*Just when a scientific principle or discovery crosses the line between the experimental and demonstrable stages is difficult to define.*”

